

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY**

<i>CERTIFICATE HOLDER INFORMATION</i>	Certificate Holder:	Maricopa County Public Fiduciary
	Certificate Number:	20037
	Type of Certificate/License:	Fiduciary
<i>COMPLAINANT</i>	Name:	Stacey Johnson
<i>INVESTIGATION INFORMATION</i>	Complaint Number:	11-0006
	Investigator:	Eric Thomas Karla Clanton Christopher DeWitt Anne Hunter
	Complaint Received:	May 27, 2011
	Complaint Forwarded to the Certificate Holder:	May 31, 2011
	Response From Certificate Holder Received:	June 24, 2011
	Report Date:	June 26, 2015

ALLEGATIONS:

1. MCPF failed to comply with the court ordered filing deadline for the Annual Report of Guardian in accordance with Arizona Code of Judicial Administration 7-202 (J)(2)(e).
2. MCPF failed to notify the representing attorney of ward, Angela Samano's (Samano), inpatient treatment, in accordance with A.R.S § 14-5312.01(D).
3. MCPF failed to serve a copy of the Annual Report of Guardian, a copy of the physician's or psychologist's evaluation report, a copy of the motion, and a copy of the form order upon both Samano and Samano's court-appointed attorney, in accordance with A.R.S § 14-5312.01(D).
4. MCPF failed to maintain current mental health treatment authority while Samano received Level 1 inpatient behavioral health treatment, in accordance with Arizona Rules of Probate Procedure Rules 36(A)(1) and Arizona Code of Judicial Administration 7-202 (J)(8).

List of sources for obtaining information: (Investigative, records, outside resources, etc.):

The investigation of this complaint included the following:

- Written complaint and documentation submitted by and investigatory interview with complainant, Attorney Stacy Johnson ("Johnson"), and Southwest Network Case Manager, Tanya Smith ("Smith")

- Written response and documentation submitted by Gary Strickland (“Strickland”) designated principal for Maricopa County Public Fiduciary (“MCPF”)
- Review of Certification and Licensing Division (“Division”) records
- Review of applicable Arizona Code of Judicial Administration (“ACJA”) § 7-201 and § 7-202, Arizona Supreme Court Rules and Arizona Revised Statutes (“ARS”)

PERSONS INTERVIEWED:

1. Stacey Johnson – Complainant and Ward’s Court Appointed Attorney
2. Tanya Smith – Southwest Network Case Manager

SUMMARY OF FACTUAL FINDINGS OF INVESTIGATION:

BACKGROUND INFORMATION

MCPF became a licensed fiduciary entity effective March 2, 1999. MCPF has renewed its license without interruption and is currently active through the certification period, which ends on May 31, 2016. On March 10, 2011, Gary Strickland was granted initial licensure. On May 10, 2012, Strickland’s license was renewed by the Fiduciary Board. On July 27, 2012 the Division received a request from Strickland to place his fiduciary license on inactive status, and on September 13, 2012, the Fiduciary Board granted Strickland inactive status.

On May 27, 2011, the Division received a written complaint from Johnson. The complaint alleged that MCPF failed to meet its statutory requirements for its ward, Samano. Johnson reported the Court received a copy of the Annual Report of Guardian filed on March 15, 2011. The report was filed late according to the Minute Entry order filed on January 28, 2010 and the Advance Notice to Guardian filed on November 28, 2010. The Annual Report of Guardian was due to be filed with the Court no later than January 13, 2011. Therefore, the report was filed two months late. Furthermore, MCPF’s inpatient mental health treatment authority expired on January 13, 2011. In the Annual Report of Guardian, MCPF moved to have the powers reinstated.

On May 31, 2011, the Division sent MCPF a copy of the complaint along with a letter informing Robert Pulver, Esq. (“Pulver”), MCPF’s attorney, and MCPF of the ACJA § 7-201(H)(3)(c) requirement that they provide a written response to the complaint within thirty (30) days. Division records reflect the mailing was delivered and signed for on June 1, 2011.

INTERVIEWS WITH COMPLAINANT

On June 1, 2011, Investigator Karla Clanton (“Investigator Clanton”) commenced a telephonic investigatory interview with Johnson. Johnson reported MCPF failed to timely file the Annual Report of Guardian for the ward. Johnson reported that MCPF allowed the mental health authority for Samano to lapse, but continued to place her within inpatient facilities without proper authorization. The Guardian Administrator for Samano, Vingh Singh (“Singh”), was unaware of the status of Samano’s location during her inpatient stays. Johnson reported that MCPF’s attorney, Pulver, failed to provide requested information to Johnson as required by statute. Johnson reported that MCPF failed to notify her that Samano was placed in a level 1 inpatient treatment facility within 48 hours of placement, pursuant to ARS § 14-5312.01(D). MCPF did not provide Johnson’s name to staff at the level 1 inpatient facility so Johnson could receive the 30 day assessment report, pursuant to ARS § 14-5312.01(E)(F). Johnson reported she has had past issues with MCPF concerning other wards, but she did not file complaints for them because the wards were fragile or had “issues”; however, she believed MCPF was blatant in their actions in this matter.

In addition, Johnson reported that she sent two letters to MCPF and exchanged email correspondence with Pulver, in which he indicated he would look into Johnson’s concerns. Johnson reported she did not receive any contact back from MCPF until 63 days after she sent her second letter dated May 27, 2011. Johnson reported after she sent the aforementioned second letter, Pulver contacted her that same day to tell her MCPF assigned another Guardian for Samano and that she was back at her group home. Johnson indicated Pulver sent her information on Samano, but it was not the information that she requested. Johnson reported she believed MCPF may use the defense that Samano was placed in inpatient facilities a couple of times, but it was not a level 1 behavioral health facility, which was why she was not notified within 48 hours. However, Johnson reported her argument was that regardless of the level of the facility MCPF had an obligation to provide information to her as Samano’s attorney and she provided the request in writing, but they still did not provide the information to her until 63 days later. Johnson also pointed out that the document MCPF filed with the Court requesting reinstatement of guardian powers and mental health authorities did not clearly state what type of facility Samano was in, therefore, Johnson assumed that Samano was placed in a level 1 facility.

On July 7, 2011, Investigator Thomas had an investigatory interview with Johnson. She reported the mental health treatment authority was reinstated for MCPF on March 23, 2011. Johnson described the reported conversation that occurred, as mentioned by Pulver in MCPF’s complaint response, as “very brief and non-inclusive”. Johnson recalled the conversation as “just a few minutes” and she was given a brief verbal update on Samano. Johnson reported she left the conversation under the assumption that documentation would be forwarded to her for further clarification. Johnson reported she never received any follow-up information thus prompting her inquiries to MCPF. Johnson acknowledged there may have been some miscommunication between herself and counsel, but such does not preclude MCPF from providing the required documentation and updates on Samano’s treatment and care. As of this conversation, Johnson reported she still had not

received any of Samano's medical or treatment records. Johnson reported she understood she could request those items from the behavioral health facilities directly; however, felt she should not have to do so. Johnson reported she was not notified within 48 hours of Samano's admission into the facilities, in accordance with A.R.S § 14-5312.01. Johnson reported she had no prior knowledge that Samano was ever placed into a facility until being made aware in the Annual Guardian Report. Johnson reported MCPF acted in direct violation of A.R.S requirements as she was not notified of Samano's inpatient admission to access her placement and treatment.

INTERVIEW WITH SOUTHWEST NETWORK CASE MANAGER

On July 7, 2011, Investigator Thomas had an investigatory interview with Smith. She reported Samano was hospitalized on separate occasions in 2011. Smith reviewed Samano's chart and noted Samano was taken off of Clozapine 100mg, in February 2011, which may have prompted her initial decompensation. Smith reported on February 20, 2011, Samano was admitted to Banner Behavioral Health Hospital-Scottsdale. Samano later left the facility against medical advice on February 22, 2011. Smith reported Samano was then admitted to Maryvale Hospital on February 23, 2011 and discharged on February 24, 2011. Smith reported Samano was again hospitalized at Aurora Behavioral Health System on March 14, 2011 and discharged on March 27, 2011.

REVIEW OF DOCUMENTS AND CORRESPONDENCE

A.R.S § 14-5312.01 reads as follows:

D. Within forty-eight hours after placement of the ward pursuant to this section, the guardian shall give notice of this action to the ward's attorney. When the attorney receives this notice the attorney shall assess the appropriateness of the placement pursuant to section 36-537, subsection B and section 36-546, subsection H. If requested by the attorney, the court shall hold a hearing on the appropriateness of the placement within three days after receiving that request.

E. The behavioral health treatment facility shall assess the appropriateness of the ward's placement every thirty days and shall provide a copy of the assessment report to the ward's attorney. The ward's attorney may attend the ward's evaluation, staffing, treatment team and case management meetings.

F. When the ward is admitted to a level one behavioral health treatment facility pursuant to this section, the guardian shall provide the facility with the name, address and telephone number of the ward's attorney. The facility shall include this information in the ward's treatment record.

H. All health care providers, treatment facilities and regional behavioral health authorities shall allow the ward's attorney access to all of the ward's medical, psychiatric, psychological and other treatment records.

The Guardianship and Conservatorship PB2009-050804 contained the following therein,

Letters of Appointment of Guardian and Acceptance filed February 5, 2010 reads, in part, as follows:

Maricopa County Public Fiduciary is appointed Guardian with Mental Health Treatment Authority of the Person of Angela Samano. The guardian's Mental Health Treatment Authority only shall expire on January 13, 2011.

Annual Report of Guardian and Motion to Reinstate Mental Health Powers filed March 15, 2011 reads, in part, as follows:

Over the past month, Angela has decompensated to the point where she had to be hospitalized for the second time. The group home staff informed this Guardian that she had lost thirty pounds over the past month and she was making "danger to self" statements that "she will starve herself to death". These statements, and the fact she lost thirty pounds, led to her hospitalization. She is currently at Banner Thunderbird.

Johnson provided copies of email correspondences between herself and Pulver. On March 24, 2011, Johnson emailed Pulver addressing MCPF's failure to comply with A.R.S §15-5312.01. The email reads, in part, as follows:

I would appreciate receiving all records related to my client's ultimate placement in treatment at, and discharge from the level 1 treatment facility. I am also requesting that I be provided with an update regarding my client's current placement and treatment team assessment.

Pulver sent a responsive email on March 24, 2011 that reads, in part, as follows:

I am perplexed by your March 24, 2011 letter where you state that the Maricopa County Public Fiduciary needed to provide you information about Ms. Samano's placement in a level 1 psychiatric facility, and inpatient treatment records. Ms. Samano continues to reside at an Arizona Mentor group home, and continues to receive psychiatric care from her physician, Dr. Jose Sosa-Roche. The Public Fiduciary's Annual Report requested renewal of mental health powers because Dr. Jose Sosa-Roche stated in his report, question No. 8, there is likelihood Ms. Samano will need care at a level 1 psychiatric facility. Specifically, he stated "[g]iven recent instability and poor decision-making there is a distinct probability she may require hospitalization in the next year." Dr. Sosa-Roche's report was sent to you for your review. I'm unable to provide you the information you requested because Ms. Samano has not been sent to a level 1 psychiatric facility.

Pulver reports he advised Johnson that Samano was at a group home and was in fact not receiving inpatient treatment. Johnson reported such was contradictory to statements made in the annual report. Pulver reported that contact would be made with Regional

Behavioral Health Authority (“RBHA”) for clarification and information would be provided to Johnson.

On March 25, 2011, Johnson sent an email to Pulver. The email read, in part, as follows:

The annual report guardian states on pages 3 lines 4 through 6 “...she was making danger to self” statements that ‘she will starve herself to death’. These statements and the fact she lost thirty pounds led to her hospitalization. She is currently at Banner Thunderbird”. After reviewing your client’s report I called Tanya Smith, the case manager listed in the report, who advised that the hospitalization was a result of a change in Angela’s medication and her decompensation after same. She also stated that she is at Aurora Behavioral Health in Glendale, which provides inpatient mental health treatment services. Ms. Smith further stated that the treatment team had just met and that she believes my client was deemed not discharge ready.

Your statements below, while true, are not complete based upon my review of the report of the annual report of guardian and my interview with Ms. Smith. I would appreciate you investigation this matter further, confirming my client’s location and providing me with the information requested in my letter dated 3/24/11.

On March 25, 2011, Pulver sent a responsive email to Johnson. The email read, in part, as follows:

Thanks for the information. A message has already been sent by the guardian administrator to Southwest Network for further information on Ms. Samano. As soon as we get the information, the Public Fiduciary will forward it to you.

On March 25, 2011, an email was sent by MCPF Connie Dohm (“Dohm”), Guardian Administrator Supervisor, to Jara Lee (“Lee”) of the Mentor Network, regarding Samano’s treatment. The email read, in part, as follows:

When was Angela admitted and discharged to/from Banner Thunderbird? When was Angela admitted to Aurora?

The responsive email on March 28, 2011, by Lee to Dohm read in its entirety, as follows:

She went to Thunderbird on the 19th and was never admitted only transferred to Aurora and returned on the 25th

Investigative findings regarding allegation 1 - *MCPF failed to comply with the court ordered filing deadline for the Annual Report of Guardian in accordance with Arizona Code of Judicial Administration 7-202 (J)(2)(e).*

The Arizona Code of Judicial Administration 7-202 (J)(2)(e) reads as follows:

The fiduciary shall ensure any document filed with the superior court is timely.

On June 24, 2011, the Division received a response to the allegations from MCPF. The response noted that MCPF was appointed temporary Guardian with mental health authority over Samano by Honorable Gerald Porter (“Judge Porter”) on January 13, 2010, PB2009-05080 and later amended on January 15, 2010. The Minute Entry issued by the Court and posted on January 28, 2010 contained, in part, the following:

On or before January 13, 2011 the Guardian shall file with the Probate Registrar the required Annual Report of Guardian for the period of January 13, 2010 through October 31, 2010 and shall file a report annually thereafter. A copy of the above shall also be provided to Probate Court Administration at the time of filing.

Arizona Rules of Probate Procedure Rules 30(C)(2)(3) reads as follows:

Unless otherwise ordered by the court, all subsequent annual reports of guardian shall cover the time from the ending date of the most recent previously filed annual report of guardian through and including the last date of the twelfth month thereafter. The report shall be filed with the court on or before the anniversary date of the issuance of the guardian’s permanent letters.

If the guardian is unable to file an annual report of guardian within the time set forth in this rules, the guardian shall, before the deadline, file a motion that requests additional time to file the report. The motion shall state why additional time is required and how much additional time is required to file the report.

In its June 24, 2011 written response to the Division, MCPF acknowledged its’ failure to file an Annual Report of Guardian within the time directed by the court in its January 28, 2010 Minute Entry. MCPF recognized that Johnson was correct in that the Annual Report of Guardian was filed on March 15, 2011, whereas the November 28, 2010 “Advanced Notice to Guardian” issued by the court directed that the Annual Report was to be filed no later than January 13, 2011.

MCPF could provide no explanation for the tardiness of the filing other than to attribute such to the “then-assigned” Guardian Administrator, Gary Warner (“Warner”). MCPF reported that Warner ended employment on February 18, 2011, without alerting his supervisor to the fact that the report was due. Once aware, MCPF immediately prepared the report and filed it. MCPF reported the court neither reprimanded nor sanctioned MCPF for the delayed filing.

MCPF reported the establishment of policies and procedures to ensure that the possibility that an Annual Report of Guardian will be filed late is dramatically reduced. MCPF notes that the reporting deadlines are monitored by the Guardian Administration Supervisor.

MCPF reported the delay in the filing of the Samano Annual Guardian Report was the result of oversight by transitioning personnel.

Investigative findings regarding allegation 2 - *MCPF failed to notify the representing attorney of Samano's inpatient treatment in accordance with A.R.S § 14-5312.01(D).*

Johnson reported MCPF failed to notify her that Samano was placed in a level 1 inpatient treatment facility within 48 hours of placement pursuant to ARS § 14-5312.01(D). According to Samano's Southwest Network Case Manager, the ward was admitted and spent time at two Level I behavioral health facilities: she was admitted to Banner Behavioral Health Hospital-Scottsdale on February 20, 2011, and to Aurora Behavioral Health System on March 14, 2011. MCPF reported on March 24, 2011, Johnson sent an email requesting information on Samano, well past the 48 hours in which MCPF should have notified the complainant of the ward's inpatient treatment episodes. In a March 25, 2011 email to MCPF, the complainant states that she became aware of her client's inpatient treatment through reading the Annual Guardian Report, and also through a telephone conversation with Tanya Smith, Southwest Network Case Manager.

Investigative findings regarding allegation 3 - *MCPF failed to serve a copy of the annual report of guardian, a copy of the physician's or psychologist's evaluation report, a copy of the motion, and a copy of the form order upon both Samano and Samano's court-appointed attorney in accordance with A.R.S § 14-5312.01(H).*

MCPF denied the allegation that Johnson was not provided the requested information regarding the whereabouts of Samano. MCPF reported on March 24, 2011, Johnson sent an email requesting information on Samano. Reportedly, Pulver responded to Johnson and it was determined that Johnson was not satisfied with the response. On March 25, 2011, Johnson sent a request to MCPF's Intake Investigator and the Guardian Administrator Supervisor requesting an investigation. After internal discussions with staff Pulver contacted Johnson with findings on the "second or third week of April 2011". Pulver reported during a conversation inside the "Old Court House" Pulver and Johnson had a discussion that lasted "two or three minutes". Pulver reports Johnson conveyed the impression her questions had been fully answered. On May 27, 2011, Johnson sent an email to Pulver alleging Pulver failed to provide her requested information since the March 24, 2011 missive. Pulver reports he was dumfounded by such a disclosure because he was under the impression he had provided Johnson all of the requested information. Pulver sent a responsive email to Johnson on May 27, 2011. The email, in part, reads as follows:

Here is the information about Ms. Angela Samano obtained from her Guardian, Ms. Trzecinski: Angela was discharged from Aurora Behavioral Health March 25th, 2011 and returned to her current placement, which is an Arizona Mentor twenty-four hour group home.

Arizona Rules of Probate Procedure Rules 36(A)(1) reads, in part, as follows:

The guardian shall serve a copy of the annual report of guardian, a copy of the physician's or psychologist's evaluation report, a copy of the motion, and a copy of the form order upon both the ward and the ward's court- appointed attorney.

Investigative findings regarding allegation 4 - MCPF failed to maintain current mental health treatment authority while Samano received Level 1 inpatient behavioral health treatment in accordance with Arizona Rules of Probate Procedure Rules 36(A)(1) and Arizona Code of Judicial Administration 7-202 (J)(8).

According to Samano's Southwest Network Case Manager, the ward was admitted and spent time at two separate Level I behavioral health acute hospitals: she was admitted to Banner Behavioral Health Hospital-Scottsdale on February 20, 2011, and to Aurora Behavioral Health System on March 14, 2011.

According to the *Letters of Appointment of Guardian and Acceptance* filed February 5, 2010 (guardianship of Angela Samano) the guardian's Mental Health Treatment Authority expired on January 13, 2011.

The *Annual Report of Guardian and Motion to Reinstate Mental Health Powers* was filed on March 15, 2011.

On July 6, 2011, Investigator Thomas contacted the Arizona Department of Health Services, Office of Behavioral Health Licensing. Investigator Thomas was informed Banner Thunderbird and Aurora Behavioral Health are designated, according to Arizona Administrative Code, as Level 1 inpatient treatment facilities. Therefore, Samano was admitted to Level 1 inpatient treatment facilities.

On July 7, 2011, Investigator Thomas reviewed Aurora Behavioral Health System's website <http://aurorabehavioral.com> and revealed the facility is a Level 1 behavioral health acute hospital.

On July 7, 2011, Investigator Thomas contacted Banner Behavioral Health Hospital-Scottsdale and was informed the facility is a Level 1 behavioral health acute hospital.

On July 11, 2011, Investigator Thomas made an inquiry to the Arizona Department of Health Services – Office of Behavioral Health Licensing. Investigator Thomas requested information on Maryvale Hospital and if the facility maintained a behavioral health component in the hospital. The inquiry was forwarded to the Department's Medical Licensing Office.

On July 13, 2011, Investigator Thomas was informed by email from The Arizona Department of Health Services – Office of Medical Licensing that Maryvale Hospital did not have an inpatient psychiatric component.

Arizona Rules of Probate Procedure Rules 36(A)(1) reads, in part, as follows:

No later than thirty days before the anniversary date of the guardian's appointment, a guardian who has been granted the authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Arizona Department of Health Services, and who wishes to renew such authority before it expires, shall file with the court the annual report of guardian and physicians and psychologist's evaluation report required in A.R.S § 14-5312.01(P) and a motion requesting that the court renew the guardian's authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Arizona Department of Health Services. In addition, the guardian shall lodge a form of order renewing such authority.

Arizona Code of Judicial Administration 7-202 (J)(8) reads as follows:

The fiduciary shall perform all duties and discharge all obligations in accordance with current Arizona law and the administrative rules, court orders, administrative orders, ACJA § 7-201 and this section adopted by the supreme court governing the licensure of fiduciaries.

ANALYSIS OF ALLEGATIONS:

Allegation 1. MCPF failed to comply with the court ordered filing deadline for the Annual Report of Guardian in accordance with Arizona Code of Judicial Administration 7-202 (J)(2)(e)

In its response MCPF acknowledged its failure to file an Annual Report of Guardian within the time directed by the Court in its January 28, 2010 Minute Entry. MCPF recognized that Johnson was correct in that the Annual Report of Guardian was filed on March 15, 2011, whereas the November 28, 2010 Advanced Notice to Guardian issued by the Court directed that the Annual Report was to be filed no later than January 13, 2011. MCPF provided no explanation for the tardiness of the filing other than to attribute such to the “then-assigned” Guardian Administrator, Gary Warner. MCPF reported Warner ended employment on February 18, 2011, without alerting his supervisor to the fact that the report was due. Therefore, Allegation 1 is substantiated.

Allegation 2. MCPF failed to notify the representing attorney of the ward's inpatient treatment in accordance with A.R.S § 14-5312.01(D)

It was reported by the case manager for Samano that she was hospitalized on separate occasions in 2011. Samano began to decompensate after being taken off of her prescribed

medication. Samano was admitted to Banner Behavioral Health Hospital-Scottsdale on February 20, 2011; Maryvale Hospital on February 23, 2011 and Aurora Behavioral Health System on March 14, 2011. Banner and Aurora, respectively, are Level 1 behavioral health acute hospitals. In accordance with A.R.S § 14-5312.01 MCPF was required to give notice to the ward's attorney within forty-eight hours after placement of the ward in these facilities. Attorney Stacey Johnson reported she never received any notifications of the ward's hospitalizations and MCPF provided no evidence to the contrary. Therefore, Allegation 2 is substantiated.

Allegation 3. MCPF failed to serve a copy of the annual report of guardian, a copy of the physician's or psychologist's evaluation report, a copy of the motion, and a copy of the form order upon both the ward and the ward's court-appointed attorney in accordance with A.R.S § 14-5312.01(H)

Arizona Rules of Probate Procedure Rules 36(A)(1) states, in pertinent part:


No later than thirty days before the anniversary date of the guardian's appointment, a guardian who has been granted the authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Arizona Department of Health Services, and who wishes to renew such authority before it expires, shall file with the court the annual report of guardian and physicians and psychologist's evaluation report required in A.R.S § 14-5312.01(P) and a motion requesting that the court renew the guardian's authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Arizona Department of Health Services. In addition, the guardian shall lodge a form of order renewing such authority. The guardian shall serve a copy of the annual report of guardian, a copy of the physician's or psychologist's evaluation report, a copy of the motion, and a copy of the form order upon both the ward and the ward's court- appointed attorney.

During the interview conducted with Johnson on July 7, 2011 Johnson stated that she had a copy of the annual report of guardian but she asserted she still had not received any of Samano's medical or treatment records. However, it appears that the information was provided to Johnson verbally by Pulver sometime in April 2011, and that at that time Pulver believed that Johnson's request for information had therefore been fulfilled. Additionally, when Johnson sent an email on May 27, 2011 alleging Pulver had failed to provide the requested information, Pulver answered the email promptly, providing the information again that same day. Therefore, Allegation 3 is not substantiated.

Allegations 4. MCPF failed to maintain current Mental Health Treatment Authority and the Ward continued to receive inpatient behavioral health treatment in accordance with Arizona Rules of Probate Procedure Rules 36(A)(1) and Arizona Code of Judicial Administration 7-202 (J)(8)

Investigator Thomas reviewed the matter of the Guardianship and Conservatorship *PB 2009-050804 Letters of Appointment of Guardian and Acceptance* filed February 5, 2010. It is noted MCPF is appointed Guardian with Mental Health Treatment Authority of the Person of Angela Samano. The guardian's Mental Health Treatment Authority expired on January 13, 2011. According to Samano's Southwest Network Case Manager, the ward was admitted and spent time at two Level I behavioral health acute hospitals: she was admitted to Banner Behavioral Health Hospital-Scottsdale on February 20, 2011, and to Aurora Behavioral Health System on March 14, 2011. However, the *Annual Report of Guardian and Motion to Reinstate Mental Health Powers* was not filed until March 15, 2011, after the ward was admitted to the level I facilities. Therefore, Allegation 4 is substantiated.

SUBMITTED BY:

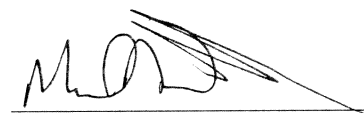


Anne Hunter, Investigator
Certification and Licensing Division

6/26/15

Date

REVIEWED BY:



Mark Wilson, Director
Certification and Licensing Division

6/30/15

Date

DECISION OF THE PROBABLE CAUSE EVALUATOR:

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 11-0006, the Probable Cause Evaluator:

☐ requests division staff to investigate further.

☒ determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to:

Allegation # 3.

☒ determines probable cause exists the certificate holder committed the alleged acts of misconduct as to:

Allegations # 1, 2 & 4.

Mike Baumstark

Mike Baumstark
Probable Cause Evaluator

7/2/15

Date

(MCPF/11-0006)

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ORDER OF THE BOARD**

***CERTIFICATE
HOLDER/LICENSEE
INFORMATION***

Certificate Holder: Maricopa County Public
Fiduciary
Certification Number: 20037

Recommendation:

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Maricopa County Public Fiduciary has committed the alleged act(s) of misconduct as detailed in Allegations 1, 2, and 4 of the Investigation Summary and Allegation Analysis Report in complaint number 11-0006.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Maricopa County Public Fiduciary has not committed the alleged act(s) of misconduct as detailed in Allegation 3 of the Investigation Summary and Allegation Analysis Report in complaint number 11-0006.

It is further recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for act(s) of misconduct involving violation of ACJA § 7-202(J)(2)(e) by failing to timely file the Annual Report of Guardian; A.R.S. § 14-5312.01(D) by failure to notify ward's attorney of inpatient treatment; and Arizona Rules of Probate Procedure Rule 36(A)(1) and ACJA § 7-202(J)(8) by failing to maintain current Mental Health Treatment Authority.

It is further recommended the Board issue a Letter of Concern.

SUBMITTED BY:



Director
Certification and Licensing Division

7/2/15

Date

FINAL DECISION AND ORDER:

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding

complaint number 11-0006 and Maricopa County Public Fiduciary, makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

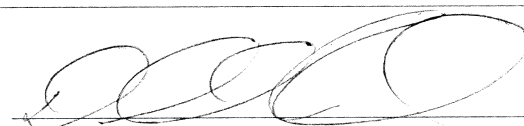
- ☐ requests division staff to investigate further.
- ☐ refers the complaint to another entity with jurisdiction.

Referral to: _____

- ☐ dismisses the complaint, and:
 - ☐ requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).
 - ☐ requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).
- ☐ determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:
 - ☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.
 - ☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).
- ☐ requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).
- ☐ orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).
- ☐ enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the certificate and sets an expedited hearing for:

Date, Time, and Location: _____

- ☒ adopts the recommendations of the Division Director.
- ☐ does not adopt the recommendations of the Division Director and orders:



Debra Primock, Chair
Fiduciary Board

7/9/15
Date



Supreme Court

STATE OF ARIZONA
ADMINISTRATIVE OFFICE OF THE COURTS

Scott Bales
Chief Justice

David K. Byers
Administrative Director
of the Courts

July 9, 2015

Maricopa County Public Fiduciary
Attention: Catherine Robbins
222 North Central Avenue, Suite 4100
Phoenix, AZ 85004

RE: LETTER OF CONCERN - Complaint Number 11-0006

Dear Ms. Robbins:

On July 9, 2015, the Fiduciary Board ("Board"), pursuant to the Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a), (H)(7), and (H)(24)(a)(6)(a):

1. Reviewed the attached Investigation Summary, Probable Cause Evaluation Report, and Recommendation;
2. Entered a finding grounds for discipline exist in this complaint;
3. Ordered resolution of the complaint through an informal disciplinary sanction; and,
4. Entered the enclosed Order to issue this Letter of Concern as to Allegations 1, 2 and 4.

ACJA § 7-201(H)(24)(b)(2) provides:

A letter of concern is a written informal discipline sanction and is not appealable. A certificate holder may file a response to the letter of concern no later than fifteen days after the date of the letter of concern. The certificate holder's response is public and division staff shall file the response in the complaint file.

If you choose to submit a written response, please address it to the Board. Pursuant to ACJA § 7-201(H)(1)(g) and (H)(24)(b)(2), this Letter of Concern and your response are not confidential.

Sincerely,

Deborah Primock, Chair
Fiduciary Board
Enclosures